

## LABOUR DEPARTMENT

The 18th August, 1986

No. 9/7/86-6 Lab./5754.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Central Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of Presiding Officer, Labour Court, Rohtak in respect of the dispute between the workman and the management of The Transport Commissioner, Haryana, (ii) Haryana Roadways, Sirsa.

BEFORE SHRI B. P. JINDAL, PRESIDING OFFICER, LABOUR COURT, ROHTAK

Reference No. 69 of 1985

*between*

TIRATH SINGH, WORKMAN AND THE MANAGEMENT OF THE TRANSPORT COMMISSIONER, HARYANA (2) HARYANA ROADWAYS, SIRSA

Shri H.S. Samaug, A.R. for the workman.

Shri V.K. Kohli, A.R. for the management.

## AWARD

1. In exercise of the powers conferred by clause (c) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947, the Governor of Haryana, referred the following dispute, between the workman Shri Tirath Singh and the management of The Transport Commissioner, Haryana (2) Haryana Roadways, Sirsa, to this Court, for adjudication,—*vide* Haryana Government Gazette Notification No. 19131—36, dated 29th April, 1985 :—

Whether the termination of services of Shri Tirath Singh is justified and in order? If not, to what relief is he entitled?

2. After receipt of the order of reference, notices were issued to the parties. The parties appeared. The case of the petitioner is that he was employed with the respondent as a Mechanic prior to the re-organisation of State of Punjab and was allotted to the State of Haryana after bifurcation of the State of Punjab and on the relevant time he was working as a Mechanic in the Haryana Roadways, Sirsa, where a false case of rash and negligent driving was foisted upon him regarding alleged accident which took place on 12th June, 1980 and the challan was put in, in the Court of Shri B. K. Gupta, the then Chief Judicial Magistrate, Sirsa under section 304-A of the Indian Penal Code who acquitted him on 27th March, 1984 but in spite of the said order of acquittal the General Manager, Haryana Roadways choose to terminate his services,—*vide* order dated 11th October, 1982 for his alleged misconduct relating to the said accident and so the said order of termination is illegal and void and as such is liable to be set aside and that all his efforts to seek redress of his grievance with the State Transport Authorities failed. So, he has prayed for re-instatement with continuity of service and full back wages.

3. In the reply filed by the respondent, preliminary objections taken are that the claim has not been filed against the proper authority i. e. State Transport Controller and that the petitioner is guilty of suppressing material facts from the Court because he was held guilty of rash and negligent driving in a compensation case by the Court of Shri V. K. Jain Motor Accident Claim Tribunal, Sirsa,—*vide* his judgement dated 1st October, 1981. It is further alleged that in view of these findings, the petitioner was issued a final show cause notice, to which, no reply was filed by the petitioner in spite of reminders issued and as such the respondent was justified in passing the order of termination *inter alia*, it is alleged that because of the rash and negligent act of the petitioner, the respondent Roadways was burdened with a compensation amount of Rupees 40,000 by the aforesaid Motor Accident Claim Tribunal and so the order of termination was fully justified.

4. On the pleadings of the parties the following issues was settled for decision by me on 10th October, 1985 :—

1. As per terms of reference.

5. The petitioner himself appeared as WW-1 and the respondent examined MW-1 Shri Ramesh Kumar Clerk, Haryana Roadways, Sirsa.

6. Heard.

7. On behalf of the petitioner Shri Samaug argued without conviction that the order of termination was not justified because the same was passed without holding a fair and proper domestic enquiry

into the alleged accident caused by the petitioner on 12th June, 1980 in which Nikku Ram died. In the same vein he contended that had the petitioner been guilty of causing the said accident, in which one Nikku Ram died, there are no reasons that adverse findings would not have been recorded against him by the Court of Shri B. K. Gupta, Chief Judicial Magistrate, Sirsa in which court, the petitioner faced criminal proceedings under section 304-A of the Indian penal Code. The contention though tempting is not tenable. Though no copy of the judgement passed by Shri Gupta in the criminal case,—*vide* which the petitioner is alleged to have been acquitted has been placed on record on behalf of the petitioner, even then, for the sake of arguments, it may be admitted that the petitioner was acquitted by the said court is no ground to hold that the petitioner was not guilty. This Court has before it findings recorded by a superior Court headed by an officer of the rank of Additional District and Sessions Judge, Sirsa, exercising powers under the Motor Accident Claim Tribunal, in which the petitioner was found guilty of causing the said accident by his rash and negligent driving. In the said proceedings before the Tribunal besides the petitioner, the State of Haryana was also a party beside others, and all the respondents offered stiff opposition to the claim for compensation filed by the heirs of the deceased Nikku Ram and the Learned Court after weighing evidence adduced by both the parties gave categorical findings that the accident occurred in which a valuable life was lost because of the rash and negligent driving by the petitioner. The Court further observed that the petitioner is a brazen liar when he took up, the stand before the said Court that he was not present at all at the time of the said alleged accident in which Shri Nikku Ram was crushed to death, though the State of Haryana took a vacillating stand that the deceased Nikku Ram himself was to be blamed for his doom as he was urinating at a place not meant for doing so. Repelling all the contentions raised by the petitioner and other respondents the Court handed out a clear verdict that the petitioner was guilty of causing the said accident by his rash and negligent driving and burdened the state of Haryana with a compensation of amount of Rs. 40,000. This Court is not aware of the fact as to whether any appeal was filed by the State of Haryana against the said judgement. In view of this matter it is difficult to go with Shri Samaug that the order of termination passed against the petitioner was not justified, because no domestic enquiry was held into the accident allegedly caused by the petitioner. The findings recorded by the Enquiry Officer after any domestic probe can not be given more credence qua the findings recorded by a superior Court exercising powers under the Motor Accident Claim Tribunal.

8. The General Manager before passing the order of termination even then choose the path of abundant precaution when he issued a final show cause notice to the petitioner, to which no reply was filed by the petitioner inspite of a reminder being given. So, under no circumstances, can it be held that the order of termination was unjustified or unlawful. The petitioner is not entitled to any relief. The reference is answered and returned accordingly with no order as to cost.

Dated the 6th June, 1986.

B. P. JINDAL,

Presiding Officer,  
Labour Court, Rohtak,  
Camp Court Bahadurgarh.

Endorsement No. 69-85/857, dated the 24th June, 1986.

Forwarded (four copies), to the Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

B. P. JINDAL,

Presiding Officer,  
Labour Court, Rohtak,  
Camp Court, Bahadurgarh.

No. 9/7/86-6Lab/5755.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Central Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of Presiding Officer, Labour Court, Rohtak in respect of the dispute between the workman and the management of M/s. (i) Transport Commissioner, Haryana, Chandigarh. (ii) Haryana Roadways, Hissar.

BEFORE SHRI B. P. JINDAL, PRESIDING OFFICER, LABOUR COURT,  
ROHTAK

Reference No. 190 of 85

*between*

SHRI SUBHASH CHANDER, WORKMAN AND THE MANAGEMENT OF (i) TRANSPORT  
COMMISSIONER, HARYANA, CHANDIGARH, (ii) HARYANA ROADWAYS,  
HISSAR

Shri J. C. Anand, A. R. for the workman.

Shri Jagbir Singh, A. R. for the management.

## AWARD

1. In exercise of the powers conferred by clause (c) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947, the Governor of Haryana referred the following dispute, between the workman Shri Subhash Chander and the management of (i) Transport Commissioner, Haryana, Chandigarh, (ii) Haryana Roadways, Hissar, to this Court for adjudication—*vide* Haryana Government Gazette Notification No. 45580—86, dated the 11th November, 1985 :—

Whether the termination of services of Shri Subhash Chander, is justified and in order? If not, to what relief is he entitled?

2. After receipt of the order of reference, notices were issued to the parties. The parties appeared. The case of the petitioner is that he was employed with the respondent as a Steno-typist on 10th June, 1975 under orders of the State Transport Controller, Haryana, Chandigarh, and he assumed the duties on 16th June 1985 with the General Manager, Haryana Roadways, Hissar and that his services were terminated by the General Manager, Haryana, Roadways on 17th February, 1979 after holding a farce of an enquiry, in which, he was not given an opportunity of participation. *Interalia*, it is alleged that order of termination against him was passed by the authority inferior to the appointing authority, which, in this case was the State Transport Controller, Haryana, Chandigarh. It is further alleged that the petitioner had filed a Civil suit against his illegal termination which was decreed by the lower Court but was dismissed in appeal by the Additional District and Sessions Judge, Hissar,—*vide* his judgement dated 25th May, 1985 on the ground that the claim of the petitioner was covered under the Industrial Disputes Act, 1947, and as such, the petitioner should have gone to the Labour Court to seek his remedy and so the petitioner was constrained to approach the Government of Haryana for making a reference to the Labour Court for adjudication against his unlawful termination.

3. In the reply filed by the respondent, preliminary objections taken are that the petitioner is debarred from raising an Industrial Disputes after having elected his remedy under the general law by filing a suit in the Civil Court. On merits, it is alleged that the petitioner was appointed purely on *ad hoc* basis for a period of six months or till the arrival of approved candidate by the Subordinate Services Selection Board, which ever was earlier and the services of the petitioner were liable to be terminated at any time without any prior notice and so, the petitioner can have no grouse against the order of termination, which was passed in accordance with the stipulation in the order of appointment.

4. On the pleadings of the parties, the following issues were settled for decision by me on 26th January, 1986 :—

1. Whether the present reference is bad in law, because the petitioner has already availed of the alternative remedy of filing a claim in the Civil Court? OPR.

2. As per reference.

5. In support of his claim, the petitioner appeared as WW-1 and the respondent examined MW-1 Shri Dalip Singh, Clerk, Haryana Roadways, Hissar Depot.

6. Heard.

7. In support of his contention that the present dispute is referable to the Court for adjudication inspite of the plaintiff having failed in his claim before the Civil Court, Shri Anand has placed strong reliance upon 1985 Vol. 39 SLR 437 Ferozepur Central Co-operative Bank Ltd., Ferozepur vs Presiding Officer, Labour Court and another. I have gone through this authority word by word. I regret to observe that this authority rather goes to the rescue of the respondent rather than the petitioner. In the authority under reference the petitioners had simply filed Civil suits in the Civil Court where relief of injunction was denied to them and they retraced their steps and thereafter moved the Government for referring the dispute to the Labour Court for adjudication and as such, there was no final decision by the Civil Court regarding the controversy before it. But in the present case, the petitioner persisted in his claim before the Civil Court against the order of termination and earned decree in his favour, which of course was set aside by the learned Additional District and Sessions Judge,—*vide* his detailed judgement dated 25th May, 1985. The learned judge after detailed discussion of the various pleas raised on behalf of the petitioner and discussing the ratio of the law laid down in Premier Automobile Ltd., v. Kamalakar Shantaram Wadka and others reported in AIR 1975 S. C. 2238, which authority was relied upon by their Lordships of the Hon'ble High Court of Punjab and Haryana in the judgement Haryana held that the claim of the petitioner was maintainable in the Civil Court but since the remedy against unlawful retrenchment was available to him under the

Industrial Disputes Act, 1947, no relief can be given to him and as such, the appeal filed by the State of Haryana was accepted. In the present dispute, the petitioner had the choice to go to the Civil Court under the common law or get the matter referred to the Labour Court for adjudication. He having elected the first forum cannot be allowed to avail of the alternative remedy of the Labour Court having failed at the first forum. So, in view of the law laid down in the authority referred to above, the present dispute is not referable to the Labour Court for adjudication and as such, no relief can be granted to the petitioner, who seems to be the victim of wrong legal advice, but this Court can hardly come to his rescue at this stage. The reference is answered and returned accordingly with no order as to cost.

Dated the 13th June, 1986.

B. P. JINDAL,

Presiding Officer,  
Labour Court, Rohtak,  
Camp Court, Hissar.

Endorsement No. 190-85/858, dated the 24th June, 1986.

Forwarded (four copies) to the Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

B. P. JINDAL,

Presiding Officer,  
Labour Court, Rohtak,  
Camp Court, Hissar.

No. 9/7/86-6 Lab./5756.—In pursuance of the provisions of Section 17 of the Industrial Disputes Act, 1947 (Central Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of Presiding Officer, Labour Court, Rohtak in respect of the dispute between the workman and the management of M/s. Ved Lakshmi Flour and General Mills (P) Ltd., Bhiwani Road, Rohtak:—

BEFORE SHRI B.P. JINDAL, PRESIDING OFFICER, LABOUR COURT, ROHTAK

Reference No. 118 of 83

*between*

SHRI MAUJI RAM, WORKMAN AND THE MANAGEMENT OF M/S. VED LAKSHMI  
FLOUR AND GENERAL MILLS (P) LTD., BHIWANI ROAD, ROHTAK

*Present :—*

Shri S. N. Vats, A. R. for the workman.

Shri M.M. Kaushal, A.R. for the management.

#### AWARD

1. In exercise of the powers conferred by clause (c) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947, the Governor of Haryana referred the following dispute, between the workman Shri Mauji Ram and the management of M/s. Ved Lakshmi Flour and General Mills (P) Ltd., Bhiwani Road, Rohtak, to this Court, for adjudication,—*vide* Haryana Government Gazette Notification No. ID/RTK/109-83/42111—16, dated 19th August, 1983:—

Whether the termination of services of Shri Mauji Ram was justified and in order? If not, to what relief is he entitled?

2. After receipt of the order of reference, notices were issued to the parties. The parties appeared. The case of the petitioner is that he was employed with the respondent as a Helper in the Rool Room for the last about four years and that his services were terminated by the respondent on 1st August, 1982 without any lawful excuse because of his union activities. *Inter alia*, it is alleged that on 19th April, 1982 the respondent terminated the services of many of his employees, because they had formed a union of workers and the management was putting pressure upon him to disengage himself from the

union activities and because of this the management tried to pressurise him to sign certain blank papers on 31st July, 1982, which he refused and as such, the management terminated his services. So, he has claimed reinstatement with continuity of service and full back wages.

3. In the reply filed by the respondent, preliminary objections taken are that the petitioner was simply employed only on 20th April, 1982 as a Cleaner and worked upto 31st July, 1982 when he started absenting from his duties and so, the petitioner has put in less than 240 days of actual work with the respondent and as such, the dispute is not referable to the Labour Court under section 2A of the Industrial Disputes Act, 1947, (hereinafter referred to as the Act). Another objection taken is that since it is a matter of retrenchment, the Labour Court has no jurisdiction to adjudicate upon the claim of the petitioner. On merits, it is alleged that the respondent factory was never run by the respondent from January, 1978 to April, 1982, because the same was on lease initially with M/s Bhawani Trading Company and subsequently with M/s Brindavan Milling Company and these two lessees had cleared all the accounts of the labour-force engaged by them and so, it is alleged that the petitioner was paid his dues on 19th April, 1984 when he was retrenched and so, it is alleged that the applicant joined the respondent only on 20th April, 1984. Residuary plea taken is that the petitioner remained gainfully employed even after his alleged termination.

4. On the pleadings of the parties, the following issues were settled for decision by me on 7th September, 1984 :—

- (1) Whether the applicant is a workman under the respondent ? OPA.
- (2) Whether this Court has no jurisdiction to try this reference ? OPR.
- (3) Whether the applicant is gainfully employed since he left the services of the respondent ? OPR.
- (4) As per reference.

5. The workman himself appeared as WW-1 and the management examined MW-1 Shri A. K. Sharma its Director and MW-2 Shri Yash Pal Chand Jain, Hand Writing and Finger Print Expert.

6. Heard. My findings on the issues framed are as below :—

*Issue No. 1 :*

7. There is no denying the fact that the applicant as per the case of the respondent remained employed with the respondent from 20th April, 1982 to 31st July, 1982, on which date, he started absenting from his duties. So, there is no question of the applicant having been not employed under the respondent.

*Issue No. 2 :*

8. Since it is a individual case of retrenchment, jurisdiction of the Labour Court to try the present reference is not ousted.

*Issue No. 3 :*

9. On this issue there is no evidence on behalf of the respondent that the workman remained gainfully employed after his alleged termination/retrenchment.

*Issue No. 4 :*

10. The case of the petitioner is that he was appointed as a Helper in the year 1977 on monthly wages of Rs. 175 and that deductions to the ESI contribution used to be made from his wages by the respondent and also deductions to the Provident Fund. On the other hand, the plea taken by the respondent is that prior to 20th April, 1982 the respondent company was under lease initially with M/s Bhawani Trading Company and thereafter with M/s Brindavan Milling Company and that the petitioner was employed by the respondent only on 20th April, 1982. Ex. M-1 to M-4 are the photo copies of the abstract from the attendance register and that all the liabilities had been fully discharged by the lessees before the expiry of their lease period and that the petitioner was paid retrenchment compensation,—vide payment voucher mark "X". In my opinion, the statement made by Shri A. K. Sharma, Director of the respondent company is contrary to the plea taken in the Written Statement filed in the Court. Their plea is that the petitioner was employed only on 20th April, 1982 after his accounts had been settled by the lessee M/s. Brindavan Milling Company on 19th April, 1982 but in the Court Shri Sharma stated that the petitioner was employed in the year 1977. He was non committal on the fact as to whether any deduction on account of provident Fund used to be made from his wages or not. Even if, it be believed that the respondent concern was on lease upto 19th April, 1982, even then, services of the employees engaged prior to the lease period cannot be terminated by the respondent on the jejune ground of change of guards. The

indiscreet admission of Shri A. K. Sharma that the petitioner was employed in the year 1977 exposes the entire story build up by the respondent in the reply filed in the Court. Under these circumstances, there is no difficulty in holding that the services of the petitioner was terminated by the respondent without any lawful excuse and as such, he is ordered to be reinstated with continuity of services and full back wages, because the demand notice was raised by him within four months of his termination. The reference is answered and returned accordingly with no order as to cost.

Dated the 12th June, 1986.

B. P. JINDAL,

Presiding Officer,  
Labour Court, Rohtak,  
Camp Court, Hisar.

Endst No. 118-83/859, dated the 24th June, 1986.

Forwarded (four copies), to the Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

B. P. JINDAL,

Presiding Officer,  
Labour Court, Rohtak,  
Camp Court, Hisar.

No. 9/7/86-6 Lab./5761.—In pursuance of the provisions of Section 17 of the Industrial Disputes Act, 1947 (Central Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of Presiding Officer, Labour Court, Rohtak, in respect of the dispute between the workman and the Management of M/s Sigma Rubber (P) Ltd., G. T. Road, Kundli (Sonapat).

BEFORE SHRI B.P. JINDAL, PRESIDING OFFICER, LABOUR COURT, ROHTAK

Reference No. 62 of 84

*between*

JAMSHED ALI, WORKMAN AND THE MANAGEMENT OF M/S. SIGMA RUBBER  
(P) LTD., G. T. ROAD, KUNDLI (SONEPAT)

Shri S. N. Solanki, A. R. for the workman.

Shri S. Kaushal, A. R. for the management.

#### AWARD

1. In exercise of the powers conferred by clause (c) of sub-section (i) of section 10 of the Industrial Disputes Act, 1947, the Governor of Haryana referred the following dispute, between the workman Shri Jamshed Ali and the management of M/s Sigma Rubber (P) Ltd., G. T. Road, Kundli (Sonapat), to this Court, for adjudication,—vide Haryana Government Gazette Notification No 158841—46, dated 24th April, 1986 :—

Whether the termination of services of Shri Jamshed Ali is justified and in order ? If not, to what relief is he entitled ?

2. After receipt of the order of reference, notices were issued to the parties. The parties appeared. The case of the petitioner is that he was employed with the respondent as a Store helper in the month of January, 1980 on monthly salary of Rs. 340/- and that the respondent choose to terminate his services unlawfully with effect from 8th July, 1983 in flagrant disregard of the provisions of the Industrial Disputes Act, 1947.

3. In the reply filed by the respondent preliminary objections taken are that the respondent industry has since been closed and as such, the reference is not maintainable and furthermore the petitioner resigned from his employment of his own and as such, the present reference regarding termination of his service is not maintainable. On merits, it is alleged that the petitioner

joined his duties on 2nd June, 1981, who remained employed as such till 16th June, 1983, after which date, he started absenting from his duties and turned up on 30th June, 1983 and submitted resignation, which was accepted on the same date and he was paid of his dues including wages in lieu of earned leave on 7th July, 1983.

4. On the pleadings of the parties, the following issues were settled, for decision,—*vide* my order, dated 24th July, 1985 :—

1. Whether the respondent unit has since been closed ? Is so, to what effect ?
2. Whether the reference is bad in law ? OPR.
3. As per terms of reference.

5. At this stage, it may be stated that initially an *ex parte* award was rendered in favour of the petitioner on 12th November, 1984 and the same was set aside on an application filed by the respondent, which was not opposed by the petitioner,—*vide* order, dated 5th April, 1985.

6. The petitioner appeared as WW-1 and the respondent examined Shri Ram Parkash its Manager.

*Issue No. 1 :*

7. On this issue is the statement of Shri Ram Parkash, Manager of the respondent concern, who stated that the respondent unit has since been closed since the month of June, 1982 and that only 10/15 people were employed in the Delhi Office. There is not an iota of evidence on behalf of the petitioner that the respondent Unit is still functioning. I see no reason to disbelieve the un rebutted statement of the Manager of the respondent Unit. So, I find that the respondent Unit has since been closed since the month of June, 1982. Its effect would be that even if the alleged order of termination is found to be unlawful, relief of reinstatement cannot be granted to the petitioner.

*Issue No. 2 :*

8. Undisputedly the terms of reference are confined to the justifiability or otherwise or the alleged order of termination. The plea of the respondent throughout has been that the petitioner resigned from his job of his own and in support of that plea the respondent has examined its Manager Shri Ram Parkash and has placed on record resignation of the petitioner Ex. M-4. dated 30th June, 1983 and also payment voucher Ex. M-3,—*vide* which, the petitioner was paid his dues. The petitioner seems to be a brazen liar when he stated that the alleged resignation letter is not signed by him and in his over zeal denied his signature upon the resignation letter, he even denied his signature upon statement of claim filed in the Court, letter of authorisation in favour of his Authorised representative and also his statement made in the court when the reference was decided *ex parte*. Statement was made by him on 10th October, 1984. If the Petitioner can deny his admitted signatures upon these documents, he can have no scruples in denying his signatures upon the resignation letter. Even otherwise, since the terms of reference are confined to the justifiability or otherwise of the alleged order or termination, this court is not bound to go into the factum as to whether the resignation allegedly submitted by the petitioner is a forged one, because a Labour Court or Industrial Tribunal cannot travel beyond the terms of reference. It has been so held in 1984 II LLN 297 Sita Ram Vishnu Shirodhkar and Administrator Government of Goa and others. 1985 Lab. I. C. 480 Rajasthan State Road Transport Corporation and others *versus* The Judge Industrial Tribunal Rajasthan Jaipur and others. 1981 Lab. I. C. 1110 Firestone Tyre and Rubber (P) Ltd. *versus* The Workman employed represented by Firestone Tyre Employees Union.

9. The learned Authorised Representative of the petitioner could not cite any contrary authority. Since the question in controversy before the Court is absolutely alien to the terms of reference, this reference is bad in law and as such, this issue goes against the petitioner.

*Issue No. 3 :*

10. Since issue No. 2 has gone against the petitioner and no order of termination was passed by the respondent against the petitioner, there is no question of any alleged order of termination being unjustified.

11. In the light of my foregoing discussion, the petitioner is not entitled to any relief. The reference is answered and returned accordingly with no order as to cost.

The 9th May, 1986.

B. P. JINDAL,  
Presiding Officer,  
Labour Court, Rohtak,  
Camp Court, Sonapat.

Endorsement. No. 62-84/846, dated 24th June, 1986.

Forwarded (four copies) to the Secretary to Government, Haryana, Labour and Employment Departments Chandigarh as required under section 15 of the Industrial Disputes Act, 1947.

B. P. JINDAL,  
Presiding Officer,  
Labour Court, Rohtak,  
Camp Court, Sonapat.

No. 9/7/86-6Lab./5762.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Central Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of Presiding Officer, Labour Court, Rohtak, in respect of the dispute between the workman and the management of M/s Polyfib M-16, Industrial Area, Sonapat.

BEFORE SHRI B. P. JINDAL, PRESIDING OFFICER, LABOUR COURT, ROHTAK

Reference No. 16 of 1985

between

SUBE SINGH WORKMAN AND THE MANAGEMENT OF M/S. POLYFIB, M-16,  
INDUSTRIAL AREA, SONEPAT

Present :—

Shri R. S. Lekra, A.R. for the workman.

Shri S. Kaushal, A. R. for the management.

#### AWARD

1. In exercise of the powers conferred by clause (c) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947 (hereinafter referred to as Act), the Governor of Haryana referred the following dispute between the workman Shri Sube Singh and the management of M/s. Polyfib, M-16, Industrial Area, Sonapat, to this Court, for adjudication,—vide Haryana Government Gazette Notification No. 6959—64, dated 23rd February, 1985:—

Whether the termination of services of Shri Sube Singh is justified and in order? If not to what relief is he entitled?

2. After receipt of the order of reference, notices were issued to the parties. The parties appeared. The claim of the petitioner is that he was employed with the respondent as a Turner for the last about four years on monthly wages of Rs 530 and all through his work and conduct was satisfactory but the respondent choose to terminate his services orally on 31st July, 1984 without any lawful excuse, nor was he served any charge-sheet and as such, he has alleged that his termination was violative of the provisions of section 25-F of the said Act.

3. In the reply filed by the respondent, preliminary objections taken are that since no order of termination was passed against the petitioner, who abandoned his employment of his own by remaining absent from his duties, the present reference is bad in law and could not have been referred to this Court for adjudication under section 2A of the said Act. In the same vein, it is alleged that the petitioner started absenting from his duties after 26th July, 1984 onwards and letters were written to him to resume his duties without any avail.



4. Additional plea projected is that during conciliation proceedings before the Labour Officer, Sonapat, and offer of employment was made to the petitioner, who did not accept the same for reasons best known to him. Furthermore, it is alleged that in case the petitioner is interested in employment even now, he can apply to the management in that behalf.

5. On the pleadings of the parties, the following issues were settled for decision on 10th June, 1985 :—

(1) Whether the reference is bad in law ? OPM.

(2) As per terms of reference. OPW.

6. In support of his case, the petitioner appeared as his own witness as WW-1 and the management examined MW-1 Shri Sube Singh, UDC, MW-2, Shri Inderjeet Singh, Clerk, office of the Labour Officer, Sonapat, MW-3 Shri H. K. Dhingra, Accountant.

7. Heard.

8. On the strength of law laid down in Division Bench of Bombay authority of the Hon'ble High Court of Bombay reported in 1984 II LLN 297 **Sita Ram Vishnu Shirodhkar and Administrator Government of Goa and others**. The learned authorised representative of the respondent Shri Kaushal contended that the present reference is not maintainable because the controversy which has cropped up before the Court is absolutely alien to the terms of reference and that a Labour Court or an Industrial Tribunal cannot travel beyond the terms of reference. From the Bombay authority cited above, it is not clear as to whether any plea of abandonment was taken by the respondent during conciliation proceedings but in the present case, such a plea was taken by the respondent even during conciliation proceedings before the Conciliation Officer at Sonapat. So, in a way the appropriate Government which made reference to the Labour Court and to whom a failure report regarding conciliation was sent by the Labour Officer, Sonapat was aware of the fact that a plea of abandonment has been taken by the management during the conciliation proceedings and as such the appropriate Government could tailor the terms of reference in accordance with the pleas of the parties but no such effort was made and a reference regarding termination was made to the Court in a very mechanical and perfunctory manner. This Court has expressed its anguish over this state of affair in so many awards rendered but without any result. It is a pity that a poor man has to wage a losing battle because of the fault of some small functionary in the Labour Department, Government of Haryana. In the neighbouring States of U. P. and Delhi terms of a reference are usually tailored in accordance with the pleas of the parties during conciliation proceedings. So, there is no difficulty in holding that the present reference is bad in law. *Inter alia* it may be observed that the management has placed on record the reply filed by them before the Conciliation Officer, copy of which, is Ex. MW-2/A. A perusal of the same goes to show that an offer was made to the petitioner to resume his duties but he did not do so. Furthermore the management has placed on record two letters Ex. M-2 and M-3, dated 28th July, 1984 and 3rd August, 1984 respectively evidencing that the petitioner was asked to resume his duties but he did not do so. Even on merits, the petitioner has no case to succeed.

Issue No. 2 :

9. Since there was no termination of services of the petitioner, there is no question of alleged order of termination being unjustified.

10. In the light of my foregoing discussion, the petitioner is not entitled to any relief. The reference is answered and returned accordingly with no order as to costs.

Dated, the 9th May, 1986.

B.P. JINDAL,

Presiding Officer,  
Labour Court, Rohtak,  
Camp Court, Sonapat.

Endorsement No. 16-85/847, dated 24th June, 1986.

Forwarded (four copies) to the Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

B. P. JINDAL,

Presiding Officer,  
Labour Court, Rohtak,  
Camp Court, Sonapat.